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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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43471	7590	05/29/2009		
Motorola, Inc. Law Department 1303 East Algonquin Road 3rd Floor Schaumburg, IL 60196			EXAMINER STANLEY, MARK P	
			ART UNIT 2427	PAPER NUMBER
			NOTIFICATION DATE 05/29/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

Office Action Summary

Application No.

107/96,340

Applicant(s)

MEDVINSKY ET AL.

Examiner

MARK P. STANLEY

Art Unit

2427

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4, 7-20, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 7-20, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the amendment filed on 2/17/2009. Claims 1-2, 4, 7-20, 23 are pending in the application.

Response to Arguments

2. Applicant's arguments filed 2/17/2009 have been fully considered but they are not persuasive.
3. Applicant argues that the rolling keys of Krishnaswamy are generated period for protecting a private key and not for determining expiration of content license and thus fails to disclose "receiving a first time out message operable for use with said rule." However the Examiner respectfully disagrees, the Examiner never stated that Krishnaswamy discloses "receiving a first time out message operable for use with said rule" only that it is inherent in the system of Krishnaswamy that that the current licensor certificate has an associated "time out limit" after which an updated licensor certificate must be received for playback of the content. It was relied upon that Krishnaswamy discloses a "time out limit" associated with a licensor certificate in combination with Doyle where by there is an explicit "time out message" included in the certificate being the interval of which is used to enforce playback of the content based on an enforcing of said "time out message" ([0113], [0118] stop time of the interval) operable with a given rule when an updated certificate is not received before the "time out message" (end of the interval). Therefore, Krishnaswamy and Doyle disclose the giving claim limitation of "receiving a first time out message operable for use with said rule".

4. Applicant argues that Doyle discloses the use of transient key pairs where an interval length is the amount of time within which a particular key-pair can be used, where before an interval expires a next interval is created with a new key-pair and thus no where discloses that the interval length is the time within which an update message having a timeout limit for playing a program content must be received. However the Examiner respectfully disagrees, Doyle discloses where by there is an explicit "time out message" ([0113], [0118] stop time of the interval) included in the certificate being the interval of which is used to enforce playback of the content based on an enforcing of said "time out message" (stop time of the interval) operable with a given rule when an updated certificate is not received before the "time out message" (stop time of the interval). Therefore, Doyle discloses a interval length as a time by which an update message must be received prior to enforced of a given rule.

5. Applicant argues that Dietrich at most discloses a local system estimating its own clock error using an external time and nowhere discloses that a calculated current time is used for determining expiration of program content license. However the Examiner respectfully disagrees, nowhere in the claim limitation is there reference to how the calculating a current time of day based on the system time of day value and a local clock of a client device is being done only that the calculating is based of the system time of day value and a local clock. Dietrich discloses calculating an appropriate time of day via using a received system time of day value (UTC time stamp) a local clock client device. Therefore, Dietrich does disclose the given claim limitation pertaining to calculating a current time of day.

Further the teachings of Dietrich for ensuring an accurate current of time day base for a client device via synchronization with a UTC is combined with the teachings of Krishnaswamy and Doyle for enforcing of playback of content during set time intervals via use of certificates whereby playback is prevented if updated certificates are not received in an appropriate time interval. Therefore, the teachings of Dietrich, Krishnaswamy and Doyle disclose using a current time of day calculated according to the claim limitation for enforcing playback based on associated time out intervals.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 1-2, 4, 7-20, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnaswamy et al. (US 7,171,021 hereinafter Krishnaswamy) and in view of Doyle et al. (US 2002/0129241 hereinafter Doyle) and in further view of Dietrich (US 6,199,170 hereinafter Dietrich)

Regarding claim 1, Krishnaswamy discloses "a method of controlling use of program content, said method comprising:"

"receiving program content;

storing said program content in memory;" (col. 9 line 59 – col. 10 line 29, Fig. 2)

"storing a rule for determining whether said program content in memory may be played;" (col. 13 lines 37-39, col. 14 lines 18-22, License)

Krishnaswamy teaches periodically receiving a licensor certificate, where a licensor certificate is used with the license for playback of the content (col. 27 lines 25-40) and without periodically obtaining an updated licensor certificate playback will be disabled as an appropriate certificate for use with the license is not available, where it is inherent that the current licensor certificate has an associated "time out limit" after which an updated licensor certificate must be received for playback of the content. But, Krishnaswamy does not explicitly state the licensor certificate containing a "system time of day value" such that the "system time of day value" is used with "a local clock of a client device" to determine "a current time of day".

However, Doyle teaches periodically receiving certificates, whereby an interval is associated with a certificate by which a following certificate must be received prior to the end of the interval, and further teaches the certificates containing a 'timestamp' corresponding to the "system time of day", the 'timestamp' and interval times is based on data from a 'Trust Time Source' ([0109], [0113]-[0126], [0132], [0149]-[0153], Figs. 8-10).

Further Dietrich teaches calculating a current time based on a "system time of day" (external time reference) and local clock via synchronization of the local clock with the received "system time of day", whereby synchronizing a local clock to the "system time of day value" such that the local clock may compute the actual current time of day according to the "system time of day value". (col. 1 lines 11-19, col. 2 lines 30-46).

Therefore, it would have been obvious to a person of ordinary skill in the art the time the invention was made to combine the teachings of Krishnaswamy for periodically receiving an updated 'Licensor Certificate' for use with a 'License' for enforcing of a rule corresponding to content playback with the teachings of Doyle for periodically receiving certificates within an assigned interval each certificate containing a "system time of day" value with the teachings of Dietrich for calculating a current time based on a "system time of day" and local clock via synchronization. One would have been motivated to include a system time of day in the certificates and use the system time of day with local clock to determine the current time such that the client may be operating on the same time frame as that of the server for ensuring proper time enforcement of agreements client side that would be used in a DRM License associated with program content to avoid local clock tampering via continuous synchronization.

Regarding claim 2, Krishnaswamy, Doyle, Dietrich disclose "the method as described in claim 1 wherein said disabling

playback of said program content comprises reducing the quality of the playback of the program content" (see Krishnaswamy col. 12 lines 53-67, col. 27 lines 25-40, whereby disabling playback the quality must be reduced).

Regarding claim 4, Krishnaswamy, Doyle, Dietrich disclose "the method as described in claim 1 and further comprising:

synchronizing the client device to said system time via said system time of day value in said first time out message" (see Dietrich col. 1 lines 11-19, col. 2 lines 30-46).

Regarding claim 7 Krishnaswamy, Doyle, Dietrich disclose "the method as described in claim 1 wherein said enforcing said rule comprises:

comparing said current time of day to said time out limit;" (col. 1 lines 11-19, col. 2 lines 30-46, obtaining current time client side via synchronizing local clock to 'system time of day value', see Krishnaswamy col. 27 lines 25-40 where a new updated Licensor Certificate must be obtained prior to a time out limit associated with a previous Licensor Certificate, see Doyle [0109], [0113]-[0126], [0132], [0149]-[0153], Figs. 8-10 receiving a new updated Certificate with within the interval determined via previous certificate)

"checking for a second time out message, said second time out message comprising a second system time of day value and a second time out limit;" (see Krishnaswamy col. 27 lines 25-40, checking for a new updated Licensor Certificate, see Doyle [0109], [0113]-[0126], [0132], [0149]-[0153], Figs. 8-10 receiving a new updated Certificate with within the interval determined via previous certificate, where each Certificate contains a 'system time of day value' and 'time out limit')

"disabling playback of said program content if said second time out message is not received prior to said time out limit" (see Krishnaswamy col. 12 lines 53-67, col. 27, Certificate used with License where if a valid Certificate is not available, playback is disabled).

Regarding claim 8, Krishnaswamy, Doyle, Dietrich disclose “the method as described in claim 1 and further comprising:

receiving a second time message;” (see Krishnaswamy col. 27 lines 25-40, checking for a new updated Licensor Certificate, see Doyle [0113]-[0126], [0132] Figs. 8-10, receiving a new updated Certificate with within the interval determined via previous certificate, where each Certificate contains a ‘system time of day value’ and ‘time out limit’)

re-enabling playback of said program content after receipt of said second time out message” (see Krishnaswamy col. 27 lines 25-40, Certificate used with License where if a valid Certificate is available, once a new updated valid Certificate is received playback is enabled according to DRM License).

Regarding claim 9, Krishnaswamy, Doyle, Dietrich disclose “the method as described in claim 1 and further comprising:

entering into a digital rights rental agreement to allow receipt of said program content” (see Krishnaswamy col. 3 lines 23-26, col. 14 lines 18-22, Fig. 13, License corresponding to a DRM agreement corresponding to program content).

Regarding claim 10, Krishnaswamy, Doyle, Dietrich disclose “the method as described in claim 1 wherein said disabling playback comprises:

disabling playback of some program content while not disabling playback of other program content" (see Krishnaswamy col. 1 lines 63-67, col. 2 lines 23-28, col. 18 lines 23-38, License containing DRM agreement corresponding to program content, where different types of licenses and a plurality of keys are available to the same content or portions of the content, each license and key effecting playback differently upon lack of valid certificate).

Regarding claim 11, Krishnaswamy, Doyle, Dietrich disclose "the method as described in claim 1 and further comprising:

synchronizing a local clock to a system clock by utilizing said time of day value" (see Dietrich col. 1 lines 11-19, col. 2 lines 30-46).

Regarding claim 12, Krishnaswamy, Doyle, Dietrich disclose "the method as described in claim 1 and further comprising:

utilizing a local clock and said system time of day value to compute a current time of day" (see Dietrich col. 1 lines 11-19, col. 2 lines 30-46, synchronizing a local clock to the "system time of day value" such that the local clock may compute the actual current time of day according to the "system time of day value").

Regarding claim 13, Krishnaswamy, Doyle, Dietrich disclose "the method as described in claim 1 and further comprising:

receiving a second time out message comprising a second system time of day value;" (see Krishnaswamy col. 27 lines 25-40, checking for a new updated Licensor Certificate, see Doyle [0113]-[0126], [0132] Figs. 8-10, receiving a new updated Certificate with within the interval determined via previous certificate, where each Certificate contains a 'system time of day value' and 'time out limit')

"disabling playback if the current time of day is later than the second system time of day value in the second time out message" (see Krishnaswamy col. 27 lines 25-40, Certificate used with License where if a valid Certificate is not available after a previous Certificate is expired, playback would be disabled).

Regarding claim 14, the claim has been analyzed and rejected for the same reasoning as claim 1 above, where the apparatus for performing the method is disclosed (see Krishnaswamy col. 4 line 60 – col. 8 line 18, Figs. 1-2).

Regarding claim 15, Krishnaswamy discloses receiving and storing program content (col. 9 line 59 – col. 10 line 29, Fig. 2) with storing a rule for determining whether said program content in memory may be played (col. 13 lines 37-39, col. 14 lines 18-22, License). Krishnaswamy further teaches periodically receiving a licensor certificate, where a licensor certificate is used with the license for playback of the content (col. 27 lines 25-40) and without periodically obtaining an updated licensor certificate playback will be disabled as an appropriate certificate for use with the license is not available, where it is inherent that the current licensor certificate has a

corresponding "time out limit" after which an updated licensor certificate must be received for playback of the content. But, Krishnaswamy does not explicitly state the licensor certificate containing a "system time of day value" such that the "system time of day value" is used with "a local clock of a client device" to determine "a current time of day".

However, Doyle teaches periodically receiving certificates, whereby an interval is associated with a certificate by which a following certificate must be received prior to the end of the interval, and further teaches the certificates containing a 'timestamp' corresponding to the "system time of day", the 'timestamp' and interval times is based on data from a 'Trust Time Source' ([0109], [0113]-[0126], [0132], [0149]-[0153], Figs. 8-10).

Further Dietrich teaches calculating a current time based on a "system time of day" (external time reference) and local clock via synchronization of the local clock with the received "system time of day", whereby synchronizing a local clock to the "system time of day value" such that the local clock may compute the actual current time of day according to the "system time of day value" (col. 1 lines 11-19, col. 2 lines 30-46).

Therefore, it would have been obvious to a person of ordinary skill in the art the time the invention was made to combine the teachings of Krishnaswamy for periodically receiving an updated 'Licensor Certificate' for use with a 'License' for enforcing of a rule corresponding to content playback with the teachings of Doyle for periodically receiving certificates within an assigned interval each certificate containing a "system time of day" value with the teachings of Dietrich for calculating a current time based on a "system

time of day" and local clock via synchronization. One would have been motivated to include a system time of day in the certificates and use the system time of day with local clock to determine the current time such that the client may be operating on the same time frame as that of the server for ensuring proper time enforcement of agreements client side that would be used in a DRM License associated with program content to avoid local clock tampering via continuous synchronization.

Regarding claim 16, Krishnaswamy, Doyle, Dietrich disclose "the method as described in claim 15 wherein said disabling playback comprises reducing the quality of the playback of said program content" (see Krishnaswamy col. 12 lines 53-67, col. 27, whereby disabling playback the quality must be reduced).

Regarding claim 17, Krishnaswamy, Doyle, Dietrich disclose "the method as described in claim 15 and further comprising:

receiving said second time message;" (see Krishnaswamy col. 27 lines 25-40, checking for a new updated Licensor Certificate, see Doyle [0113]-[0126], [0132] Figs. 8-10, receiving a new updated Certificate with within the interval determined via previous certificate, where each Certificate contains a 'system time of day value' and 'time out limit')

re-enabling playback of said program content after receipt of said second time message" (see Krishnaswamy col. 27 lines 25-40, Certificate used with License where if

a valid Certificate is available, once a new updated valid Certificate is received playback is enabled according to DRM License).

Regarding claim 18, Krishnaswamy, Doyle, Dietrich disclose “the method as described in claim 15 and further comprising:

entering into a digital rights rental agreement to allow use of the program material” (see Krishnaswamy col. 3 lines 23-26, col. 14 lines 18-22, Fig. 13, License corresponding to a DRM agreement corresponding to program content).

Regarding claim 19, Krishnaswamy, Doyle, Dietrich disclose “the method as described in claim 15 wherein said disabling playback comprises:

disabling playback of some program content while not disabling playback of other program content” (see Krishnaswamy col. 1 lines 63-67, col. 2 lines 23-28, License containing DRM agreement corresponding to program content, where different types of licenses available to the same content, each license effecting playback different upon lack of certification).

Regarding claim 20, Krishnaswamy, Doyle, Dietrich disclose “the method as described in claim 15 and further comprising:

synchronizing a local clock to a system clock” (see Dietrich col. 1 lines 11-19, col. 2 lines 30-46).

Regarding claim 22, Krishnaswamy, Doyle, Dietrich disclose “the method as described in claim 15 and further comprising:

disabling playback if the current time of day is later than the second system time of day value in the second time message” (see Krishnaswamy col. 27 lines 25-40, Certificate used with License where if a valid Certificate is not available after a previous Certificate is expired, playback would be disabled).

Regarding claim 23, the claim has been analyzed and rejected for the same reasoning as claim 15 above, where the apparatus for performing the method is disclosed (see Krishnaswamy col. 4 line 60 – col. 8 line 18, Figs. 1-2).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK P. STANLEY whose telephone number is (571)270-3757. The examiner can normally be reached on 8:00AM - 5:00PM Mon-Fri EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark P Stanley/
Examiner, Art Unit 2427

/Dominic D Saltarelli/
Primary Examiner, Art Unit 2421

